

COUNTY COUNCIL
OF
HARFORD COUNTY, MARYLAND

BILL NO. 94-62 (as amended)

Introduced by Council President Wilson at the request of the County Executive
Legislative Day No. 94-22 Date August 9, 1994

AN ACT to add a new definition to Section 267-4, Definitions, of Article I, General Provisions, of Part 1, Standards; to repeal and re-enact, with amendments, Subsection A of Section 267-11, Variances, of Article II, Administration and Enforcement, of Part 1, Standards; to add new Subsection 10, Buffer Exempt Areas and the Buffer Exempt Area Maps attached hereto and incorporated herein by reference to Section 267-41.1.G.(4)(a), of Section 267-41.1, Chesapeake Bay Critical Area Overlay District, of Article VI, District Regulations, of Part I, Standards; and to repeal and re-enact, with amendments, Subsection (4), Accessory structures, minor additions, of Section 267-41.1 F, Regulation of uses in the critical area overlay district, and to repeal and re-enact with amendments Section 267-41.1.H, Variances, of Section 267-41.1, Chesapeake Bay Critical Area Overlay District, of Article VI, District Regulations, of Part 1, Standards, of Chapter 267, Zoning, of the Harford County Code, as amended, to repeal the provision concerning accessory structures and minor additions in the buffer area and to provide for changes in the Buffer Area for land in the Critical Area, to amend the standards for variances for land in the Critical Area, and generally relating to changes to the local Critical Area Program.

By the Council, August 9, 1994

Introduced, read first time, ordered posted and public hearing scheduled

on: September 6, 1994

at: 6:00 p.m.

By Order: James D. Vannoy, Acting Secretary

PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on September 6, 1994, and concluded on, September 6, 1994

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law. Underlining indicates language added to Bill by amendment. Language lined through indicates matter stricken out of Bill by amendment.

Section 1. Be It Enacted By The County Council of Harford County, Maryland, that a new definition is hereby added to Section 267-4, Definitions, of Article I, General Provisions, of Part 1, Standards, and that Subsection A of Section 267-11, Variances, of Article II, Administration and Enforcement, of Part 1, Standards, is hereby repealed and reenacted, with amendments, and Subsection 10, Buffer Exempt Areas and the Buffer Exempt Area Maps attached hereto and incorporated herein by reference, are hereby added to Section 267-41.1.G.(4)(a), of Section 267-41.1, Chesapeake Critical Area Overlay District, of Article VI, District Regulations, of Part I, Standards, and Subsection (4), Accessory structures, minor additions, of Section 267-41.1.F, Regulation of uses in the critical area overlay district, is hereby repealed, and Section 267-41.1.H, Variances, of Section 267-41.1, Chesapeake Bay Critical Area Overlay District, of Article VI, District Regulations, of Part 1, Standards, be and is hereby repealed and re-enacted with amendments, of Chapter 267, Zoning, of the Harford County Code, as amended, is repealed and reenacted, with amendments, to read as follows:

Chapter 267. Zoning.

Part 1. Standards.

Article I. General Provisions.

§ 267-4. Definitions.

BUFFER EXEMPT AREA - THOSE AREAS AS OF DECEMBER 1, 1985 WHERE IT CAN BE DEMONSTRATED THAT THE EXISTING PATTERN OF RESIDENTIAL, COMMERCIAL, INDUSTRIAL, OR RECREATIONAL DEVELOPMENT IN THE CRITICAL AREA PREVENTS THE BUFFER FROM FULFILLING THE FUNCTIONS SET FORTH IN COMAR 27.01.09.01.B FOR WATER QUALITY AND WILDLIFE HABITAT AND WHICH ARE MAPPED BUFFER EXEMPT BY THE DEPARTMENT OF PLANNING AND ZONING.

Article II. Administration and Enforcement.

§ 267-11. Variances.

A. EXCEPT AS PROVIDED IN SECTION 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal

enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.

(2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.

Article VI. District Regulations.

§ 267-41.1. Chesapeake Bay Critical Area Overlay District.

F. Regulation of uses in the critical area overlay district.

[(4) Accessory structures; minor additions. The construction of accessory structures and additions to existing structures are allowed within unforested portions of the critical area buffer on parcels designated as intensely developed areas and limited development areas, provided that:

(a) A minimum setback of fifty (50) feet shall be maintained between any part of the proposed structure or addition and tidal waters, tidal wetlands or tributary streams.

(b) Any proposed structure, addition and associated impervious surface area constructed within the buffer area shall not, in the aggregate, exceed an area greater than one thousand (1,000) square feet.

(c) The removal of natural vegetation shall be minimized in the construction of the proposed structure or addition. Appropriate trees, shrubs and ground cover materials shall be planted between the structure or addition and the edge of tidal waters, tidal wetlands and tributary streams in accordance with a landscaping plan approved by the Zoning Administrator to reduce the potential adverse impacts on water quality caused by construction of the proposed structure or addition.]

G. Habitat protection areas.

(4) Specific provisions.

(a) Critical areas buffer.

[10] BUFFER EXEMPT AREAS. THE FOLLOWING PROVISIONS APPLY TO SHORELINE AREAS THAT HAVE BEEN IDENTIFIED AS BUFFER EXEMPT AREAS IN THE HARFORD COUNTY CRITICAL AREA PROGRAM AS SHOWN ON THE BUFFER EXEMPT AREA MAPS ATTACHED HERETO AND INCORPORATED HEREBY BY

REFERENCE. BUFFER EXEMPT AREAS ARE THOSE LOTS OF RECORD AS OF DECEMBER 1, 1985 WHERE THE PATTERN OF RESIDENTIAL, INDUSTRIAL, COMMERCIAL OR RECREATIONAL DEVELOPMENT PREVENTS THE BUFFER FROM FULFILLING ITS INTENDED PURPOSES AS STATED IN COMAR 27.01.09..01.B. FOR THESE BUFFER EXEMPT AREAS, CONSTRUCTION OR PLACEMENT OF NEW OR ACCESSORY STRUCTURES, MINOR ADDITIONS AND ASSOCIATED NEW IMPERVIOUS SURFACES ON DEVELOPED LOTS OR PARCELS IS PERMITTED PROVIDED THAT:

[A] DEVELOPMENT DOES NOT IMPACT ANY OTHER HABITAT PROTECTION AREA;

[B] VARIANCES TO OTHER SETBACK REQUIREMENTS HAVE BEEN CONSIDERED BEFORE ADDITIONAL DEVELOPMENT WITHIN 100 FEET OF MEAN HIGH TIDE IS APPROVED;

[C] NEW DEVELOPMENT AND REDEVELOPMENT IN THE BUFFER EXEMPT AREA SHALL BE LOCATED AS FAR FROM THE EDGE OF TIDAL WATERS, TIDAL WETLANDS AND TRIBUTARY STREAMS AS POSSIBLE, AND THE REMOVAL OF EXISTING VEGETATION SHALL BE THE MINIMUM NECESSARY;

[D] WHEN ANY STRUCTURE WITHIN THE BUFFER EXEMPT AREA IS REMOVED OR DESTROYED, IT MAY BE REPLACED PER [C] ABOVE, BUT IN NO CASE SHALL ANY PORTION OF IT BE RELOCATED SHOREWARD OF THE EXISTING BUILDING FOOTPRINT;

[E] EXCEPT FOR DEVELOPMENT ASSOCIATED WITH WATER DEPENDENT FACILITIES, ANY PROPOSED STRUCTURE, ADDITION AND ASSOCIATED IMPERVIOUS SURFACE AREA CONSTRUCTED WITHIN THE BUFFER EXEMPT AREA SHALL NOT, IN THE AGGREGATE, EXCEED AN AREA GREATER THAN ONE THOUSAND (1,000) SQUARE FEET, AND WITHIN THE LDA, THE EXPANSION OF EXISTING STRUCTURES SHALL NOT INCREASE THE TOTAL AREA OF IMPERVIOUS SURFACES TO MORE THAN TWENTY-FIVE PERCENT (25%) OF THE TOTAL AREA OF THE PARCEL OR

1 LOT WHICHEVER IS LESS;

2 [F] NEW IMPERVIOUS SURFACES LOCATED WITHIN THE BUFFER
3 EXEMPT AREA SHALL BE REQUIRED TO OFFSET FOR SUCH DEVELOPMENT AS
4 FOLLOWS:

5 [1] THE AREA SHOREWARD OF THE NEW DEVELOPMENT
6 OR REDEVELOPMENT SHALL BE ESTABLISHED AND MAINTAINED IN NATIVE TREES,
7 SHRUBS AND GROUND COVER MATERIAL, AND

8 [2] NATIVE TREES AND SHRUBS OF AN AREA TWICE THE
9 EXTENT OF THE NEW IMPERVIOUS SURFACE CREATED IN THE BUFFER EXEMPT
10 AREA MUST BE ESTABLISHED ON THE SITE IN ACCORDANCE WITH A LANDSCAPING
11 PLAN APPROVED BY THE ZONING ADMINISTRATOR, OR.

12 [3] IF THE REQUIRED PLANTING, OR ANY PORTION OF THE
13 REQUIRED PLANTING, CAN NOT BE ACCOMPLISHED ON SITE, OR OFFSITE WITHIN
14 THE CRITICAL AREA, AS DETERMINED BY THE ZONING ADMINISTRATOR, THE
15 APPLICANT SHALL PAY A FEE IN LIEU OF \$1.20 PER SQUARE FOOT FOR THE AREA TO
16 BE PLANTED.

17 [4] THE COUNTY SHALL ESTABLISH REGIONAL AREAS FOR
18 PLANTINGS AND/OR STORMWATER MANAGEMENT FACILITIES TO FULFILL THE
19 WATER QUALITY AND WILDLIFE HABITAT FUNCTIONS OF THE CRITICAL AREA
20 BUFFER FOR THOSE AREAS WHICH HAVE BEEN EXEMPTED FROM THE BUFFER
21 EXEMPT AREA PROVISIONS USING THE FEE IN LIEU PAID. MONIES CONTRIBUTED
22 UNDER THIS SECTION SHALL BE DEPOSITED IN A SEPARATE ACCOUNT, AND SHALL
23 BE USED FOR SITE IDENTIFICATION, ACQUISITION, DESIGN, PREPARATION AND
24 PLANTING OF VEGETATION AT SELECTED REGIONAL WATER QUALITY AND
25 WILDLIFE IMPROVEMENT AREAS, AND SHALL NOT REVERT TO THE GENERAL FUND.

26 H. Variances. [In addition to the requirements of § 267-11, variances from the provisions of this
27 section may be granted.] VARIANCES FROM THE PROVISIONS OF THIS SECTION MAY

1 ONLY BE GRANTED IF, DUE TO SPECIAL FEATURES OF A SITE OR OTHER
2 CIRCUMSTANCES, IMPLEMENTATION OF THIS SECTION OR A LITERAL ENFORCEMENT
3 OF ITS PROVISIONS WOULD RESULT IN UNWARRANTED HARDSHIP TO AN
4 APPLICANT. All applications for variances shall be reviewed by the Zoning Administrator for
5 conformance with applicable provisions of this section, and a written report shall be provided to the
6 Board of Appeals. In granting a variance, the Board shall issue written findings demonstrating that
7 the requested approval complies with each of the following conditions:

8 (1) That a literal interpretation of the provisions of this section will deprive the applicant
9 of rights commonly enjoyed by other properties in similar geographic and land use management areas
10 within the Critical Area.

11 (2) That the granting of a variance will not confer upon the applicant any special privilege
12 that would be denied by this section to other lands or structures within the Critical Area.

13 (3) That the variance request is not based upon conditions or circumstances which are the
14 result of actions by the applicant, nor does the request arise from any condition relating to land or
15 building use, either permitted or nonconforming, on any neighboring property.

16 (4) That the granting of a variance will not adversely affect water quality or adversely
17 impact fish, wildlife, or plant habitat within the Critical Area, and the granting of the variance will
18 be in harmony with the purpose and intent of this section.

19 (5) That all identified Habitat Protection Areas on or adjacent to the site have been
20 protected by the proposed development and implementation of either on-site or off-site programs.

21 (6) That the growth allocation for the County will not be exceeded by the granting of the
22 variance.

23 (7) THAT THE VARIANCE WILL NOT BE SUBSTANTIALLY DETRIMENTAL TO
24 ADJACENT PROPERTIES OR WILL NOT MATERIALLY IMPAIR THE PURPOSE OF THIS
25 PART 1 OR THE PUBLIC INTEREST.

26 (8) ALL APPLICATIONS FOR VARIANCE REQUESTS SHALL BE FILED IN
27 WRITING IN ACCORDANCE WITH SECTION 267-9.D. OF THE ZONING CODE. NOTICE

1 OF ALL VARIANCE REQUESTS AND COPIES OF APPLICATIONS FILED IN ACCORDANCE
2 WITH THIS SECTION SHALL BE SENT TO THE CHESAPEAKE BAY CRITICAL AREA
3 COMMISSION WITHIN TEN (10) WORKING DAYS OF FILING WITH THE DEPARTMENT
4 OF PLANNING AND ZONING. A COPY OF THE RECOMMENDATION OF THE HEARING
5 EXAMINER OR OF THE BOARD IN ACTING ON THE VARIANCE SHALL BE PROMPTLY
6 SENT TO THE COMMISSION.

7 Section 2. And Be It Further Enacted that this Act shall take effect sixty (60) calendar days from
8 the date it becomes law.

EFFECTIVE: December 6, 1994

HARFORD COUNTY BILL NO. 94-62 (as amended)

(Brief Title) Chesapeake Bay Critical Area Law-Amendment

is herewith submitted to the County Council of Harford County for enrollment as being the text as finally passed.

CERTIFIED TRUE AND CORRECT

ENROLLED

James D. Varnay
Acting Secretary
of the Council

[Signature]
President of the Council

Date October 4, 1994

Date October 4, 1994

BY THE COUNCIL

Read the third time.

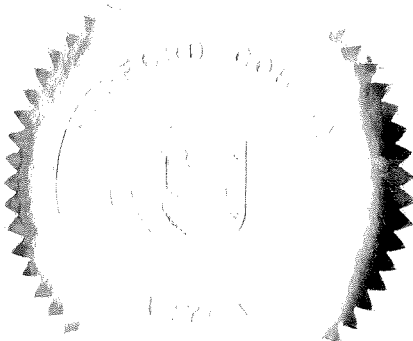
Passed: LSD 94-26 (October 4, 1994)

Failed of Passage: _____

By Order

James D. Varnay
Acting Secretary

Sealed with the County Seal and presented to the County Executive for approval this 5th day of October, 1994 at 3:00 p. m.



James D. Varnay
Acting Secretary

BY THE EXECUTIVE

Edwin M. Redmann
COUNTY EXECUTIVE

APPROVED: Date October 7, 1994

BY THE COUNCIL

This Bill (No. 94-62, as amended), having been approved by the Executive and returned to the Council, becomes law on October 7, 1994.

James D. Varnay
Acting Secretary

EFFECTIVE DATE: December 6, 1994